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Issue Briefing Paper

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Title: FOREIGN OWNERSHIP OF U.S. LAND

THE BACKGROUND

Private individuals and corporations own about 60 percent of U.S. land. Federal, state and local governments own the rest. But news reports in recent months give the impression of a marked upswing in foreign investment in U.S. land--especially farmland.

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The reports range from specific accounts such as a German family buying a 453-acre estate in Virginia to more speculative reports such as the estimate that 100,000 acres of Montana are owned by foreigners.

Knowing who owns land is important to many people, because they believe land ownership affects how land is used and how wealth is distributed nationally.

IMPORTANT QUESTIONS

Foreign acquisition of U.S. land prompts several important questions. Do farmland purchases by foreign investors limit opportunities for American farmers to buy land? Do foreign purchases cause real estate prices to increase out of proportion? Will U.S. land resources be exploited for foreign benefit? Do treaties and tax havens operate to the advantage of foreign investors? Will foreign firms be responsive to employment, community development and national security needs? Will foreign ownership allow too much outside control over U.S. food production and prices?

Information to answer these questions is not available. The fragmented and incomplete data available on who owns the acreage of the United States allows only generalities to be made. Getting detail is difficult because no central source of information exists and records often do not show separated interests. However, that situation should now change.

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT OF 1978

Reporting foreign-held agricultural land is required by the Agricultural Foreign Investment Disclosure Act of 1978, enacted Oct. 14, 1978. It's a major attempt to find out how much U.S. agricultural land is owned by foreigners.

The act contains a basic definition of agricultural land, and includes land used for agricultural production, forestry or timber.

Anyone not a U.S. citizen, including governments, corporations or other entities and individuals owning agricultural land must report the holding to the U.S. Department of Agriculture. Reports also must be filed by foreigners who convert land to agricultural uses and U.S. agricultural land-owners who become foreigners.

Under the law, fines up to 25 percent of the assessed value of the land will be imposed on those who knowingly fail to report foreign ownership of U.S. agricultural land.

Any foreign holding of U.S. farmland--no matter how small--must be reported to the department of agriculture, except an acre or less on which the value of products produced was less than \$1,000 and were for the owner's personal use.

The intent of congress was to eliminate the possibility of the real landowners remaining secret through the use of "dummy" corporations, by requiring that persons filing a report disclose not only their interest in the agricultural land, but the legal nature of that interest. In this way, the "ultimate owner" should be named, even if there are several layers of agents or dummy corporations. Regulations published February 6 in the Federal Register give specific reporting procedures.

The secretary of agriculture is authorized in the act to determine whether information submitted in a report accurately and completely identifies the ultimate owner.

The only exceptions to the reporting requirements are people or firms holding mortgages, secured loans, mechanic liens, judgment liens or similar security interests. They do not have to report those interests.

HOW THE REPORTS WILL BE USED

The secretary of agriculture will use the information to determine whether foreign investment in U.S. farmland is affecting the nation. He will place special emphasis on family farms and rural communities. A report on these findings will be issued to the president and to congress, who will decide what, if any, legislative or administrative actions should be taken by the federal government.

PREVIOUS STUDIES INDICATE LOW FOREIGN OWNERSHIP

Some previous studies have provided insight into foreign ownership of U.S. land. The "benchmark survey" by the U.S. Department of Commerce, completed in 1975, surveyed all 6,000 foreign firms and individuals which had direct investments in the United States. The combined holdings of those owning 200 or more acres of land totaled 4.9 million acres. The survey may have included offshore holdings, not part of the United States, and may have missed investors buying land through small brokers as well.

However, even if we ignored all deductions and doubled the 4.9 million acre total to make a substantial allowance for owners with less than 200 acres and other investors not included in the survey, foreign ownership in 1975 would still have been less than 1 percent of the 1.3 billion acres of private land.

If all that foreign-owned land had been farmland, and it was not, it would have represented only slightly more than 1 percent of U.S. farmland.

With the International Investment Survey Act of 1976 Congress recognized the importance of getting good data on investment in U.S. real estate. It provided for a special twoyear study on the feasibility of monitoring foreign direct investment in agricultural, rural and urban real estate and the feasibility of conducting a nationwide multipurpose land data system. This report is due October 1979.

Another survey, reported by the General Accounting Office June 12, 1978, was entitled "Foreign Ownership of U.S. Farmland--Much Concern, Little Data." The survey responded to a request from Congress for information on state laws about foreign investment in U.S. farmland, availability of data on foreign ownership at state and county levels and alternatives for a nationwide data collection system.

RECENT DEPARTMENT SURVEYS

Two agencies of the U.S. Department of Agriculture carried out surveys. They reported results to the Senate agriculture committee that broadly reaffirmed what department experts had already believed. The results, made public Jan. 17, 1979, said foreign investors acquired about 827,000 acres of farm and ranch land between Jan. 1, 1977, and June 30, 1978, a period of 18 months. Less than half was actually cropland.

The report said that at such rates of investment, it would take 19 years for foreigners to acquire ownership of another 1 percent of U.S. farmland.

Twenty states accounted for about 90 percent of the land transfers. Oregon was first in acres sold, followed by Texas, Georgia, Louisiana and Arkansas. Most of the foreign investment in Oregon was in one large ranch purchase.

Because of techniques used in collecting and combining the data, the estimates of foreign investment in the survey may be on the high side.

LITTLE CONSTRAINT ON FOREIGN OWNERSHIP

To gather the information, the Comptroller General of the United States queried each state governor, sent researchers to six states and 25 counties, talked with legislators, state and county officials, lawyers, brokers, farmers and other agricultural experts, reviewed various state and federal records and met with federal officials.

The team found that states generally do not inhibit foreign ownership significantly. Half the states had laws that placed some constraints on foreign ownership of land and half did not.

Information the researchers gathered showed at least 44,700 acres (0.3 percent) of farmland in 25 counties of five states visited were owned by nonresident alien interests.

The report also said current or planned federal data collection efforts were not encouraging. The General Accounting Office staff thought a federal registration system was the best alternative offered and offered the simplest means to obtain nationwide data. They are conducting a followup study in 100 counties. The report is scheduled to be completed in May.

PERIODIC SURVEYS PROVIDE SOME INFORMATION

Other efforts are underway to get good information about U.S. land ownership. The Resource Economic Survey of Ownership is the first national survey of all private lands. Its report is being prepared now. The 50,000-place sample will determine landownership including residence and citizenship, but it wasn't designed to determine foreign ownership nor to penetrate the veil of nominal ownership.

The Census of Agriculture made every five years by the U.S. Department of Commerce offers some information regarding ownership of land, but its scope is limited to farms and is based on farm operation, not land ownership. Data from the 1974 survey is just now emerging. The commerce department is taking the 1979 survey now.

There are a few other areas where public records shed some light on land ownership, such as records of deeds and tax records kept by local government offices.

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Prepared from information compiled by USDA's Economics, Statistics and Cooperatives Service

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